

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6664**

**BILL NUMBER: SB 445**

**DATE PREPARED:** Apr 12, 2001

**BILL AMENDED:** Apr 11, 2001

**SUBJECT:** Criminal History Checks.

**FISCAL ANALYST:** Dave Hoppmann; Jim Landers, Mark Goodpaster

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**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *State or Governmental Entities-* This bill specifies that a state or governmental entity may obtain the release of limited criminal history for an applicant for employment with the entity.

*School Entities-* It specifies that a school corporation, nonpublic school or special education cooperative may obtain without charge the limited criminal history of a prospective employee from a law enforcement agency. (It also specifies that a special education cooperative may obtain without charge the limited criminal history of an adult volunteer from a law enforcement agency.)

*National Criminal Background Checks-* It allows a qualified entity to request the Indiana State Police Department (State Police) for a national criminal history background check regarding a person who: 1) seeks to be employed with the entity or who has been employed by the entity for not more than three months; or 2) seeks to volunteer with an entity or who has volunteered with an entity for not more than three months.

*Violent Crime Claimant Funds-* It provides that all victims of the same violent crime who file a claim for compensation from the Violent Crime Victims Compensation Fund must receive an amount of money that is equal to the highest award received by any of the victims, and allows for a claimant to file an application for additional funds.

*Academic and Vocational Education Curricula-* It specifies that educational programs at state institutions may be provided by a public or private entity and must be: (1) consistent with the state's academic standards; (2) offered in a manner that allows the student to qualify for a high school diploma; and (3) provided by licensed teachers. It adds a chapter to the Indiana education law concerning classification, representation, and discipline of educational employees, including a hearing procedure.

*Employment Protection for Educational Employees-* It provides for disciplinary procedures for

noncertificated employees of a school corporation. It also provides certain procedural requirements before a noncertificated employee of a school corporation may be discharged.

This bill also makes related changes.

**Effective Date:** (Amended) September 10, 1999 (Retroactive); Upon passage; July 1, 2001.

**Explanation of State Expenditures:** (Revised) *State or Governmental Entities-* The Indiana State Police (State Police) would incur no additional administrative expenses regarding this provision of the bill. Under current law, state and governmental entities already request and obtain the release of limited criminal histories for applicants seeking employment.

*School Entities-* The State Police would incur no additional administrative expenses regarding this provision of the bill. Under current law, the State Police processes an unknown number of requests for limited criminal histories of prospective employees by school corporations, nonpublic schools, and special education cooperatives. (The elimination of limited criminal history fees would not likely increase the demand for such background checks since school entities requiring limited criminal histories do so as a matter of policy, regardless of fees.)

This provision would not affect the State Police's ability to charge fees for limited background histories of individuals who seek teacher certification via the Professional Standards Board.

*National Criminal Background Checks-* The State Police would experience an increase in administrative expenses regarding the processing and dissemination of national background checks for qualified entities that provide care or care placement services. Possible organizations that could request such background checks include but are not limited to the following entities: 1) school corporations; 2) special education cooperatives; 3) child care facilities; and 4) youth organizations such as Girl Scouts, Boy Scouts, and Cub Scouts.

Annual expenses could range from \$55,660 to \$333,959 depending upon the number of additional data process operators and fingerprint classifiers hired by the State Police. (This range is based on two to twelve additional clerical positions including benefits.) The exact number of additional staff is currently indeterminable, and would depend upon the number of national criminal background checks requested by qualified entities.

The funds and resources required above could be supplied through a variety of sources, including the following: 1) existing staff and resources not currently being used to capacity; 2) existing staff and resources currently being used in another program; 3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; 4) funds that, otherwise, would be reverted; or 5) new appropriations.

There are 51 authorized clerical positions within the State Police's Central Records Division of which eight are currently vacant (November 2000 staffing table). Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Qualified entities would be allowed to request national background checks from the State Police of individuals seeking employment, or recently employed (three months) with the entity. (This bill does not require qualified entities to request national background checks.) In addition, prospective volunteers of a qualified entity, or recently accepted volunteers (three months) could also be required to submit to a national

background check.

There are currently 294 school corporations, 60-70 special education cooperatives, and approximately 5,250 assorted child care entities in the State of Indiana.

Funding for the State Police originates from the state General Fund and the Motor Vehicle Highway Fund.

*Limited Criminal Histories Background-* Typically, a school corporation requests a limited criminal history when it is in the process of hiring a previously certificated employee who has had a significant break in employment. It is not the general policy of a school corporation to request limited criminal histories of newly licensed individuals since criminal background histories are conducted as part of the certification process via the Professional Standards Board.

The State Police reports that the exact number of limited criminal histories conducted at the request of school corporations, nonpublic schools, and special education cooperatives is currently indeterminable.

*Violent Crime Claimant Funds-* This bill amends the Indiana Code concerning violent crime victims compensation to provide that two or more victims who suffer similar injuries and damages receive an amount of money that is equal to the highest award received by any of the claimants. The maximum amount of an award to an individual claimant is \$15,000. Compensation is provided through the Violent Crime Victims Compensation Fund.

The Violent Crime Victims Compensation Fund is administered by the Victims Services Division of the Criminal Justice Institute. The Fund was established as a dedicated fund to provide compensation to victims or on behalf of victims who were injured or killed as a result of a violent crime. Funds are deposited from restitution orders issued by the court (IC-35-50-5-3), transfer of funds by the state auditor, and appropriations from the General Assembly. Money in the Violent Crime Victims Compensation Fund does not revert to the state General Fund at the end of the fiscal year.

The current balance in the Fund is \$470,529. Of this amount, \$306,235 represent federal funds and \$164,294 represent state funds. It is not anticipated that any of the state funds will be carried into the 2001-2003 biennium. New federal funds are anticipated, but a specific amount cannot be determined at this time.

*Academic and Vocational Education Curricula-* The Department of Correction indicates that to comply with the change in academic standards, it may need to hire a curriculum consultant and more teachers in some juvenile facilities.

The Indiana Soldiers' and Sailors' Children's Home would not experience any increase in administrative expenses to meet the academic requirements of this bill. The Home is currently required to be accredited by the State in accordance with current law, so all education programs (including vocational education) leading to a high school diploma are currently to be conducted in accordance with Indiana Academic Standards.

All of the agencies that administer these facilities and institutions employ licensed teachers.

The Indiana Soldiers' and Sailors' Children's Home, the Indiana School for the Blind, and the Indiana School for the Deaf currently do not contract with private entities for educational services.

*Employment Protection for Educational Employees-* This bill provides for the discipline and discharge of

noncertificated employees of school corporations. Under the bill, an employee may be disciplined before suspension or discharge, but only for just cause as specifically enumerated by the bill. Also, the employer must give employees “reasonable time” to correct any problems prompting disciplinary action. If unsuccessful, an employer may suspend employees and ultimately discharge them if no remediation has occurred. Employees may request a hearing by an IEERB-appointed hearing examiner at any time prior to discharge. This would impact the state by requiring the IEERB to appoint a hearing examiner upon the written request by the noncertificated school employee subject to discharge. To comply with this provision, the Board may require additional funding between \$50,000 and \$100,000 annually for ad hoc services based on an estimated 100 cases per year.

**Explanation of State Revenues:** (Revised) *School Entities*- The state General Fund could experience a decrease in limited criminal history revenue due to this provision of the bill.

Under current law, the State Police is allowed to charge a \$7 fee for responding to school corporation, nonpublic school, and special education cooperative requests for limited criminal histories of individuals who seek employment in certificated and non-certificated positions.

In accordance with this provision, the State Police would no longer be able to charge a fee for these individuals if the limited criminal history is requested by the entities mentioned above.

The specific impact to the state General Fund is currently indeterminable, and would depend upon the number of limited criminal histories annually requested by school corporations, nonpublic schools, and special education cooperatives for certificated and non-certificated employees, as well as for special education cooperative adult volunteers.

State General Fund Revenues from total criminal history checks for FY 2000 totaled \$1,602,808.

*National Criminal Background Checks*- The state General Fund could experience an increase in national background check fee revenue due to this provision of the bill. The State Police reports that of the \$34 fee that is charged for a national background check, the state General Fund receives \$10 (the \$24 difference is paid to the federal government.)

The specific impact to the state General Fund is currently indeterminable, and would depend upon the number of national background checks annually requested by school corporations and nonpublic schools for certificated and non-certificated employees.

**Explanation of Local Expenditures:** (Revised) *Employment Protection for Educational Employees*- Additional costs to local school corporations may arise from provisions in the bill which require decisions on reduction in force and rehiring to be based solely on classification seniority. This provision may alter the hiring decisions of the employer. The fiscal impact is unknown and would depend upon the specific hiring decisions (and the wage levels of the employees affected) that would have occurred without this provision.

Any suspensions with pay under this legislation may increase school corporation expenditures. To the extent that current discipline and dismissal policies at these institutions allow for more rapid action by the employer, this bill may increase administrative expenses. School corporation funding comes from local property taxes and the state and federal governments.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana State Police; Criminal Justice Institute, Victim Services Division; Department of Correction; Indiana Soldiers' and Sailors' Childrens' Home; Indiana School for the Deaf; Indiana School for the Blind; state-owned and -operated developmental centers and mental health institutions that house children of school age; IEERB.

**Local Agencies Affected:** School Corporations, Special Education Cooperatives.

**Information Sources:** Steve Hillman, (317) 232-8204, Indiana State Police; Catherine O'Connor, (317) 232-1233, Criminal Justice Institute; Department of Correction, Planning Division; Robert Marra, (317) 232-0570, Department of Education; Dennis Neary, (317) 233-6620, IEERB; Nelson Miller, (317) 639-0330, Indiana School Boards Association; State Budget Agency.